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SUMMARY RECORD OF THE 44th MEETING

Chairman: Mr. LEHMANN (Denmark)

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The meeting was called to order at 10.45 a.m.

AGENDA ITEM 144: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (continued) (A/C.6/50/L.8)

Draft resolution A/C.6/50/L.8

1. Mr. MOUSHOUTAS (Cyprus) introduced draft resolution A/C.6/50/L.8 on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus and said that its provisions had been based on the chapter entitled "Recommendations and conclusions" of the report of the Committee on Relations with the Host Country (A/50/26). The main areas of discussion in the Committee had been the question of the security of missions and the safety of their personnel and the question of indebtedness of diplomatic personnel, which was a matter of significant concern to the United Nations. Therefore, paragraph 4 of the draft resolution stated that the General Assembly noted with appreciation the report of the Secretary-General on the problem of indebtedness, stressed that non-payment of undisputed debts reflected badly on the entire diplomatic community, reaffirmed that non-compliance with contractual obligations could not be justified or condoned, and endorsed the proposals and procedures on the issue of financial indebtedness set out in annex II to the current report of the Committee.

2. Regarding the security of missions to the United Nations, he referred to the third preambular paragraph and paragraphs 2 and 3 of the draft resolution. He also singled out paragraph 5 regarding the lifting of travel controls on certain missions and staff members, and paragraph 6 relating to the parking of diplomatic vehicles.

3. He drew attention to paragraph 4 and stressed that the correct English title of the report was "Report of the Secretary-General on the problem of diplomatic indebtedness," and hence the words "financial indebtedness" in the second line of the paragraph should be replaced by "diplomatic indebtedness"; the words "diplomatic indebtedness" in the same line should be replaced by the words "such indebtedness".

4. The sponsors of the draft resolution hoped that, as in previous years, the draft resolution would be adopted by consensus.

5. The CHAIRMAN said that some delegations had informed him that they were still awaiting instructions with regard to taking a decision on draft resolution A/C.6/50/L.8. Accordingly, he suggested that further consideration of the matter should be postponed to a later date.

AGENDA ITEM 141: REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SEVENTH SESSION (continued) (A/C.6/50/L.7)

Draft resolution A/C.6/50/L.7

6. The CHAIRMAN introduced draft resolution A/C.6/50/L.7 and drew attention to the final preambular paragraph which stressed the importance of interaction between the Sixth Committee and the International Law Commission with a view to

improving the dialogue between the two organs. He highlighted the requests to the Commission in paragraph 3, subparagraphs (a), (b) and (c), which dealt, respectively, with work on the draft Code of Crimes against the Peace and Security of Mankind, the draft articles on State responsibility and the draft articles relating to activities that risked causing transboundary harm. He also referred to paragraph 4 regarding work on the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on the nationality of natural and legal persons". Paragraph 8 referred to the Commission's suggestions to include a new item in its agenda and paragraph 9 requested the Commission to examine the procedures of its work for the purpose of further enhancing its contribution to the progressive development and codification of international law and to include its views in its report to the General Assembly at its fifty-first session. Paragraph 15 reflected the fact that Governments should allow sufficient time to study the report. If he heard no objection, he took it that the Committee wished to adopt draft resolution A/C.6/50/L.7 by consensus.

Draft resolution A/C.6/50/L.7 was adopted by consensus.

7. Mr. ARBOGAST (United States of America), explaining his position, said that although the Sixth Committee had urged the Commission to complete its second reading of the draft Code of Crimes against the Peace and Security of Mankind, he trusted that the Commission would bear in mind the need to ensure broad support for its final draft. It was important that the Code should properly codify existing law. The Code dealt with serious crimes and there would have to be agreement on whether it would define those crucial norms for everyone. He hoped that work would proceed on the draft Code bearing in mind that the main objective was getting it right rather than merely completing another reading of the Code. The Code should be broadly and universally accepted, and the same applied to the Commission's work on State responsibility. The Commission should focus its efforts on areas where wide agreement could be achieved, even if such an approach meant putting aside certain draft articles, such as those on State crimes.

8. It was unproductive for the Commission to try to weave new rules concerning so-called international crimes by States into the fabric of State responsibility law. The draft resolution had requested the Commission to develop alternative approaches where necessary so that the first reading of the draft articles on State responsibility could be completed. If agreement proved impossible, setting the matter aside for second reading would make it possible to achieve progress on other issues while preserving positions on the question of so-called State crimes for the second reading.

9. After a discussion concerning the French and Spanish versions of the draft resolution in which Mr. MIGNOT (France), Miss BOUM (Cameroon), Ms. FLORES (Mexico) and Mr. SIDI ABED (Algeria) took part, and following the provision of clarification in that connection by the CHAIRMAN and Miss DAUCHY (Secretary of the Committee), the CHAIRMAN noted that the Committee had concluded its consideration of agenda item 141.

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

10. Mr. Corell (Under-Secretary-General for Legal Affairs, The Legal Counsel), replying to a question put to the Secretariat, reported to the Committee on the preparation of the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council.

11. The Repertory and its supplements contained analytical studies on the application and interpretation by the principal organs of the United Nations of the Articles of the Charter. Various Secretariat units were preparing contributions for publication in the supplements, in accordance with their operational responsibilities and under the guidance of the Inter-Departmental Committee on Charter Repertory. A staff member of the Office of Legal Affairs chaired the Committee and coordinated the preparation of the Repertory and the supplements.

12. The five basic volumes of the Repertory had been published in 1955 and covered the period up to 31 August 1954. Subsequently, five supplements to the Repertory had been published, covering the period from 1 September 1954 to 31 December 1978, although additional work remained to be done to complete the fifth supplement, and volumes III and IV had not yet been completed. Preparations for Supplement No. 6 were also under way, covering the period from 1 January 1979 to 31 December 1984.

13. Regrettably, preparation of the Repertory had fallen behind schedule, because the attention and resources of the Secretariat units that were to have worked on the preparation of the Repertory had largely been taken up by the tremendous increase in the work of the Organization resulting from the new peace-keeping activities. The situation had been exacerbated by the restructuring of the Secretariat in recent years, with some members of the Inter-Departmental Committee on Charter Repertory and others working on the project being replaced or removed from their duties. The responsibility for preparing the Repertoire of the Practice of the Security Council rested with the Department of Political Affairs. Work on the tenth supplement of the Repertoire, covering the period 1985-1988, was already under way. It should be noted that studies for chapter VIII of that supplement had already been completed. Those studies contained an analysis of the Security Council's proceedings with respect to 39 agenda items considered during the period 1985-1988. Studies related to four other chapters of the tenth supplement had also been completed, and the preparation of studies for the remaining chapters of the supplement, which had been assigned to officers of the Department of Political Affairs responsible for the Repertoire, were also under way, with a view to completing the tenth supplement and submitting it for publicatio.. before the end of 1995. It was also anticipated that preparation of studies for the eleventh supplement, covering the period 1989-1992, would begin in the first quarter of 1996.

14. He acknowledged that the delay in preparation of both publications was regrettable. If the General Assembly wished them to be updated, that would of course be done. He was ready to discuss the matter with Member States in the Special Committee on the Charter. In the meantime, he would study the situation

more closely in order to identify the responsible units within the Organization. He was more concerned about the Repertory, since the Office of Legal Affairs could not prepare it without the help of a number of units outside the control of that Office. In any event, he could not at the moment judge whether it would be possible to carry out the necessary work with the resources available, although he feared that the Office of Legal Affairs would not be able to do it.

The meeting was adjourned at 11.25 a.m. and resumed at 11.45 a.m.

AGENDA ITEM 152: REVIEW OF THE ROLE OF THE TRUSTEESHIP COUNCIL (A/50/142; A/C.6/50/L.6)

15. Mr. CASSAR (Malta), introducing the item, mentioned the progress made in consultations on the subject and said that his Government was in favour of including it in the agenda of the current session because it was impossible to review the structure and institutions of the Organization without examining the role of the Trusteeship Council. He recalled that at the forty-fifth session of the General Assembly, his Government had invited Member States to consider the matter and had proposed that, in addition to its current functions, the Council should also be entrusted with holding in trust for humanity its common heritage and common concerns. The great importance attributed to the matter was shown by the many conventions which referred directly or indirectly to that common heritage and those common concerns.

16. The draft resolution on the item (A/C.6/50/L.6) had two main elements, one relating to the importance of the views of Member States on the future of the Trusteeship Council and the other consisting of the proposal to give it a greater role. He was aware that it was not an easy question to deal with and therefore proposed that the views of Member States should be sought. The operative part of the resolution also contained two important elements; one was the consultation process itself, and the other was the fact that the results of that process should be incorporated into the general review of the system to increase its efficiency. Work was currently being carried out on a consensus text which would include the concerns expressed by various delegations. It was important to coordinate that work so as to reach the broadest consensus possible.

17. Mr. KANEHARA (Japan) thanked the delegation of Malta for revitalizing the discussion on the Trusteeship Council. As everyone knew, there were diverging opinions on the manner in which the question should be approached. Without prejudice to its views on such matters as the environment or the common heritage of mankind, his Government, as it had stated during the forty-ninth session with respect to the process of reforming the system, believed the Council should be abolished. In his opinion, the matter should be considered in the Special Committee on the Charter and, for its legal implications, in the Sixth Committee. If the comments of States could be elicited, the matter ought to be considered at the following session.

The meeting rose at 12.05 p.m.